



DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-830]

Certain Walk-Behind Lawn Mowers and Parts Thereof from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain walk-behind lawn mowers and parts thereof (lawn mowers) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2019, through March 31, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Frank Schmitt or Mark Flessner, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4880 or (202) 482-6312, respectively.

SUPPLEMENTARY INFORMATION

Background

On December 30, 2020, Commerce published its *Preliminary Determination* of sales at LTFV of lawn mowers from Vietnam.¹ For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and

¹ See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 86534 (December 30, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the Socialist Republic of Vietnam,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope Comments

On February 16, 2021, we received timely filed scope case briefs from Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye)³ and MTD Products, Inc. (the petitioner).⁴ On February 23, 2021, we received timely filed rebuttal scope case briefs from Briggs & Stratton, LLC (Briggs & Stratton)⁵ and the petitioner.⁶ For a summary of the scope briefs and rebuttal scope briefs submitted to the record for this investigation, and accompanying discussion and analysis of the scope briefs and rebuttal scope briefs timely received, *see* the Final Scope Determination Memorandum.⁷ As a result of our analysis of these scope briefs and rebuttal scope briefs, we have made no changes to the scope language published in the *Preliminary Determination*.

Scope of the Investigation

The products covered by this investigation are certain walk-behind lawn mowers and parts thereof from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

³ *See* Ningbo Daye's Letter, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam, Case Nos. A-570-129, C-570-130, and A-552-830: Scope Case Brief," dated February 16, 2021.

⁴ *See* Petitioner's Letter, "Walk-Behind Lawn Mowers and Parts Thereof from Vietnam: Letter in lieu of Scope Case Brief," dated February 16, 2021.

⁵ *See* Briggs & Stratton's Letter, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Petitioner's Rebuttal Brief on Scope Issues," dated February 23, 2021.

⁶ *See* Petitioner's Letter, "Walk-Behind Lawn Mowers and Parts Thereof from Vietnam: Letter in lieu of Scope Rebuttal Brief," dated February 23, 2021.

⁷ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Scope Comments Decision Memorandum for the Final Determinations," dated concurrently with this memorandum.

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁸

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Separate Rate Companies

No party commented on our preliminary separate rate determination with respect to the mandatory respondent, Ducar Technology Co., Ltd. (Ducar).⁹ Thus, there is no basis to reconsider our preliminary determination with respect to separate rate status, and we have continued to grant Ducar a separate rate in this final determination.

Vietnam-Wide Entity Rate and the Use of Adverse Facts Available (AFA)

Commerce continues to find that the use of facts available is warranted in determining the rate of the Vietnam-wide entity pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act. As discussed in the Issues and Decision Memorandum, Commerce finds that the use of AFA is warranted with respect to the Vietnam-wide entity because the Vietnam-wide entity did not cooperate to the best of its ability to comply with our requests for information and, accordingly, we applied adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a). For the final determination, as AFA, we are assigning to the

⁸ See Commerce's Letter to Ducar, dated February 2, 2021; *see also* Ducar's Letter, "Certain Walk-Behind Lawn Mowers from Vietnam: 'Verification' Supplemental Questionnaire – Response," dated February 9, 2021.

⁹ See *Preliminary Determination* PDM at 13.

Vietnam-wide entity the highest transaction-specific dumping margin calculated for Ducar, 176.37 percent. Because this constitutes primary information, the statutory corroboration requirement in section 776(c) of the Act does not apply.

Combination Rates

Consistent with the *Preliminary Determination* and Policy Bulletin 05.1,¹⁰ Commerce calculated combination (producer/exporter) rates for the single respondent eligible for a separate rate in this investigation, Ducar.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated Weighted-Average Dumping Margin (percent)
Ducar Technology Co., Ltd.	Ducar Technology Co., Ltd.	148.35
Vietnam-Wide Entity ¹¹		176.37

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of lawn mowers from Vietnam, as described in the appendix to this notice, which were entered, or withdrawn from warehouse, for consumption on or after December 30, 2020, the date of

¹⁰ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹¹ The Vietnam-wide entity includes Techtronic Cordless GP, a producer or exporter of merchandise under consideration that was issued, but did not respond to, Commerce's quantity and value questionnaire.

publication of the *Preliminary Determination* of this investigation in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of Vietnamese exporters/producers of subject merchandise that have not received their own separate rate above, the cash deposit rate will be the cash deposit rate established for the Vietnam-wide entity; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own separate rate above, the cash deposit rate will be the cash deposit rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce,

antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 14, 2021.

Ryan Majerus,
Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of this investigation covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of this investigation are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under 16 CFR Part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR Part 1205 remain subject to the scope of this proceeding.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR Part 1054 or other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished and/or unassembled lawn mower means, at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of this investigation. The inclusion in a third country of any components other than the mower subassembly does not remove the lawn mower from the scope. Lawn mowers that meet the physical description above are covered by the scope of this investigation regardless of the origin of its engine, unless such lawn mowers contain an engine that is covered by the scope of the ongoing proceedings on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from China. If the proceedings on small vertical engines from China are terminated, the lawn mowers containing small vertical engines from China will be covered by the scope of this proceeding.

The lawn mowers subject to this investigation are typically at subheading: 8433.11.0050. Lawn mowers subject to these investigations may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Vietnam-Wide Rate
- VII. Changes Since the *Preliminary Determination*
- VIII. Discussion of the Issues
 - Comment 1: Surrogate Value for Drive Rod
 - Comment 2: Surrogate Value for Rear Cover Shaft
 - Comment 3: Surrogate Value for Side Deflector Pole
 - Comment 4: Surrogate Value for Blade Adapter
 - Comment 5: Surrogate Value for Blade Washer
- IX. Recommendation

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